In the High Court of Judicature at Madras

Dated:07.03.2006

Coram:

The Hon'ble Mr.Justice P.SATHASIVAM
and
The Hon'ble Mr.Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.227 of 2006

Baji Rao .. Petitioner

vs.

1. Lakshmiammal

2. Inspector of Police
Mylapore Police Station
Mylapore, Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Ms.Thenkodi Nelson

ORDER

(Order of the Court was made by P.SATHASIVAM,J.,)

The petitioner by name Baji Rao, has filed this petition for production of his grandson, Senbagaraman before this Court and hand over the custody to him.

2. A perusal of the averments made in the affidavit show that the first respondent is none else than the maternal grand mother of the detenu, whereas the petitioner is a paternal grand father. It is also seen that the detenu has lost his father in the year 1998 and the mother in 2002. The affidavit further proceeds that after the death of petitioner's daughter, the first respondent persuaded the detenu, minor boy, to go along with her, just for two days and thereafter the boy was not allowed to join with the petitioner.

Considering the fact that the petitioner as well as the first respondent are interested for the welfare of the minor and the parents of the detenu are not alive, we are of the view that

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the question regarding custody of the minor boy had to be considered by the competent forum and the same cannot be agitated before this Court by filing habeas corpus petition. Further, we are satisfied that inasmuch as the first respondent being a maternal grand mother and the detenu is with her, it cannot be construed as illegal detention by the first respondent. All these have to be agitated before the appropriate forum. Giving liberty to the petitioner to move the concerned Court, this petition is dismissed.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Inspector of Police
Mylapore Police Station
Mylapore
Chennai.

+ one cc to Mr.Thenkodi Nelson, Sr.No.10950

RL (CO)
RSM/10.3.2006

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